

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

In the Matter of:

Pimmit Branch
Falls Church, Virginia 22043
(Elaine J. Mittleman, Petitioner)

Docket No. A2011-90

**ANSWER OF UNITED STATES POSTAL SERVICE IN OPPOSITION TO
PETITIONER'S MOTION TO REQUEST THE UNITED STATES POSTAL
SERVICE TO SUPPLEMENT THE RECORD**
(October 25, 2011)

By means of Order No. 882, the Commission docketed correspondence from Elaine J. Mittleman (Petitioner), assigning PRC Docket No. A2011-90 as an appeal pursuant to 39 U.S.C. § 404(d).¹ On October 18, 2011, the Petitioner filed a motion in this docket, which included three requests. The first request was that the United States Postal Service (Postal Service) provide information and supplement the record in this docket about a possible "relocation of the Falls Church Post Office, which is presently located at 301 W. Broad Street, Falls Church, VA 22046."² The second request was that the Petitioner be granted an extension of time to file the initial brief until after the record has been supplemented. The third request was that the Postal Service should post a notice of the Petitioner's appeal at the Pimmit Branch and make the appeal documents available at the Pimmit Branch. As explained below, the Commission should deny the first and third of these requests.

¹ PRC Order No. 882, Notice and Order Accepting Appeal and Establishing Procedural Schedule, PRC Docket No. A2011-90, September 29, 2011.

² Motion of Petitioner to Request the United States Postal Service to Supplement the Record concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046, PRC Docket No. A2011-90, October 18, 2011, at 4. See also *id.* at 2.

As an initial matter, the United States Postal Service reiterates that this appeal is not within the scope of the Commission's jurisdiction under 39 USC § 404(d).³ The Pimmit Branch is not a Post Office, so Commission jurisdiction under 39 U.S.C. § 404(d) does not attach. In the Postal Service's view, the appeal procedures of 39 USC 404(d) do not apply to the Pimmit Branch because the Pimmit Branch is not a Post Office. Thus, the Commission's Rules of Practice for Post Office closings found in 39 C.F.R. § 3001.110-117 do not apply in this instance. Petitioner fails to allege facts that constitute a condition precedent to any jurisdiction of the Commission under section 404. 39 U.S.C. § 404(d)(5).

Concerning the Petitioner's first request, plans for the relocation of all or part of the "Falls Church Post Office, which is presently located at 301 W. Broad Street, Falls Church, VA 22046" are not mentioned in the administrative record that the Postal Service filed in this docket on October 12, 2011.⁴ According to 39 C.F.R. 241.3(d)(4)(i), "The record must include all information that the district manager, Customer Service and Sales, considered, and the decision must stand on the record."⁵ There is a Falls Church Finance Unit, VA, which is located at 800 W. Broad Street, Falls Church, VA, which is referred to in the Final Determination to Close the Pimmit Branch and Continue to Provide City Delivery

³ See Response of United States Postal Service to Petitioner's Application for Suspension of Discontinuance for the Pimmit Branch, Falls Church, Virginia 22043, PRC Docket No. A2011-90, October 7, 2011; United States Postal Service Notice and Application for Non-Public Treatment, PRC Docket No. A2011-90, October 12, 2011.

⁴ See United States Postal Service Notice and Application for Non-Public Treatment, PRC Docket No. A2011-90, October 12, 2011.

⁵ 39 C.F.R. § 241.3 (2010); *see also* Post Office Organization and Administration: Establishment, Classification, and Discontinuance, 76 Fed. Reg. 41,413 (July 14, 2011) (to be codified at 39 C.F.R. Part 241), and Correction, 76 Fed. Reg. 43,898 (July 22, 2011).

Service.⁶ The Falls Church Finance Unit, VA has a carrier annex at 301 W. Broad Street, Falls Church, VA, but that is a different facility and planning for that facility evidently did not inform the discontinuance of the Pimmit Branch. Therefore, such plans were not germane to the discontinuance of the Pimmit Branch by the Postal Service, and the Commission should deny the Petitioner's request that the Postal Service provide information and supplement the record in this docket about such plans.

Second, the Postal Service does not object to the Commission granting the Petitioner's request for an extension of time for the Petitioner to prepare and file the initial brief in this docket. If the Commission grants the Petitioner's request for an extension of time, the Postal Service requests that the Commission adjust the procedural schedule accordingly.

Third, because, as discussed above, the Commission's Rules of Practice for Post Office closings set forth in 39 C.F.R. § 3001.110-117 do not apply in this instance, the requirements set forth in 39 C.F.R. § 3001.117 concerning the posting of documents related to a Post Office discontinuance do not apply. Similarly, because the appeal procedures of 39 U.S.C. § 404(d) do not apply, the regulations concerning the display of appeal documents set forth in 39 C.F.R. § 241.3(g)(3)(ii) do not apply. Therefore, the relief that the Petitioner requests is not mandatory in this instance.

For the reasons set forth above, the Commission should deny Petitioner's request that the Postal Service provide information and supplement the record in

⁶ See United States Postal Service Notice and Application for Non-Public Treatment, PRC Docket No. A2011-90, October 12, 2011, at Administrative Record, Item 25, pages 4-9.

this docket about the possible “relocation of the Falls Church Post Office, which is presently located at 301 W. Broad Street, Falls Church, VA 22046.”⁷

Furthermore, the Commission should deny Petitioner's request that the Postal Service should post a notice of the Petitioner's appeal at the Pimmit Branch and make the appeal documents available at the Pimmit Branch.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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⁷ Motion of Petitioner to Request the United States Postal Service to Supplement the Record concerning the Relocation of the Main Post Office in Falls Church, Virginia 22046, PRC Docket No. A2011-90, October 18, 2011, at 4. *See also id.* at 2.